

# Exhibit C

Deposition Transcript of Michael J. Brown  
(excerpted)

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CONCERNED PASTORS FOR SOCIAL ACTION, et al.,

Case No. 16-10277

Plaintiffs,

Hon. David M. Lawson

vs.

NICK A. KHOURI, et al.

Defendants.

1

DEPOSITION OF MICHAEL J. BROWN

Taken by the Plaintiffs on the 10th day of January, 2023,  
at the offices of Ripka, Boroski & Associates, 717 South  
Grand Traverse, Suite 2, Flint, Michigan, commencing at  
or about 1:28 p.m.

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1 Q Were you asked to evaluate something specific?

2 A As in...?

3 Q So, if you could turn to paragraph 7 and 8 of your  
4 affidavit. And I'm going to read part of paragraph 7 out  
5 loud to you.

6 You say, "... I am aware that Plaintiffs are  
7 asking the Court to require the City of Flint to provide  
8 notice to addresses within the City of Flint where water  
9 service line restoration has previously occurred, but  
10 there is no contemporaneous record of restoration in the  
11 City of Flint's tracking database."

12 Is that the potential extra work you were  
13 evaluating --

14 A **Correct.**

15 Q -- in this affidavit?

16 So, in your own words, could you describe for  
17 me what you understood that the city could be required to  
18 do.

19 A Well, what I was explain -- explained to me about the  
20 Fifth Motion -- like I said, I'm not familiar with all  
21 the aspects, but when it was explained to me that -- what  
22 was needing to be done is that every single house was  
23 going to have to get a door hanger put on it and ask  
24 if -- if -- and I don't even know what all the door  
25 hanger's going to have on it yet -- but to ask if people

1                   are satisfied with whatever work was done for  
2 restoration, et cetera.

3                   And that's just going to be a huge -- I don't  
4 have people barely able to get the jobs done we have to  
5 get done now. That's why we have a contractor in doing  
6 the work. And this is going to be a lot of extra work  
7 for whoever does it. And then, where's the money going  
8 to come from?

9   Q   When you say "every single house," what do you mean by  
10                   that?

11   A   Any house that was -- that was done, that there was a dig  
12                   done at. So whether it -- whether it was replacement or  
13                   not, you still have to do a dig to take a look at the  
14                   piping. That's what this SLR is all about is to find out  
15                   is the piping lead galvanized? Does it need to be  
16                   replaced? And get it replaced if they're of -- it needs  
17                   to be done.

18                   That's what I understood when I first came into  
19                   this job. I was brought along slowly, and now I'm in  
20                   charge of overseeing a lot of it.

21   Q   So just to make sure I understand your understanding, the  
22                   city could be required to provide notice to every home  
23                   where it completed an excavation; is that -- am I stating  
24                   that accurately?

25   A   That's what I understood, yes.

1 Q Okay. And is that the understanding you had when you  
2 wrote this affidavit?

3 A **The understanding I had when I wrote this affidavit, yes,**  
4 **that there was going to be this much larger job scope of**  
5 **work that needed to be done, and I don't feel that the**  
6 **city has the manpower to be able to do it, nor the**  
7 **resources.**

8 MS. ROLNICK: So I'm now handing the witness  
9 Exhibit 3.

10 Q (BY MS. ROLNICK) So if you could turn to paragraph 13 of  
11 this exhibit. That's on page 12 and 13.

12 A **I have 13 on page 11.**

13 Q Or it starts on page 11.

14 A **Is that what you mean?**

15 Q Mm-hmm. And if I could ask you to read out loud on page  
16 13, which is paragraph 13(3), where it says, "Notice to  
17 residents."

18 A **"If the city --"**

19 Q I'm sorry. Let me go back for a moment.

20 Do you recognize this document?

21 A **No. I don't know if I've seen it or not.**

22 Q Have you seen this document before?

23 A **I just said I don't remember if I've seen this or not.**

24 MS. ROLNICK: Okay. So I'll represent for the  
25 record that this is the proposed order that Plaintiff

1 Q But you were not evaluating the potential burden of  
2 sending people to inspect homes to see whether they  
3 required further restoration?

4 A Yes, I was. They -- Somebody has to go out and -- and  
5 look or has to put out a door hanger, whether they're  
6 looking at that home at the time or not. And, again,  
7 that's extra duties and extra time that has to be taken  
8 away and that I don't have to put my people on.

9 Q Could you point me to where in your affidavit it mentions  
10 the burden of the actual visual inspection process?

11 A No, I didn't know about the actual visual until just now.

12 Q So, you were only evaluating this affidavit, just to make  
13 sure I understand, the notice requirement and the  
14 potential consequences of the notice?

15 A Correct.

16 Q So, did you consider specific costs of this potential  
17 notice requirement?

18 A No. I just looked at a time usage of my personnel, and I  
19 don't have spare personnel to put anywhere at this time.  
20 I'm shorthanded in my water service group and unable to  
21 get everything we'd like to get done there. We have to  
22 put off work because of emergencies, such as main breaks  
23 and such that are coming in this time of year and  
24 throughout the year.

25 Q Did you look at the cost of printing the door hangers?

1 A No, I haven't looked at any costs to speak, just knowing  
2 that I don't have the personnel to send out.

3 Q Okay. So, the only thing you took into account in  
4 deciding -- coming to your opinion that this would impose  
5 an undue and heavy burden was the need to send people to  
6 hang the door hangers?

7 A Right. And to look -- I figure there would be something  
8 that they'd have to look at, keep records, drop the door  
9 hanger off, and then keep moving in regards to that.

10 Q Did you consider anything else?

11 A That they may have to evaluate what was done previously  
12 or have to spend time on a computer looking up to find  
13 what might have been done at an address.

14 Q What do you mean by what might have done previously?

15 A Our records, a lot of the records are incomplete, but we  
16 do have some. And they'd have to look into our system,  
17 Cityworks, to take a look there. There are fields there  
18 that would be populated and say -- or look through the  
19 notes to say what was done at that address for  
20 restoration, if it was put -- even put in.

21 Q And why would, in your understanding, someone have to  
22 look at that as part of this notice -- potential notice  
23 requirement?

24 A How would any one person know what addresses they have to  
25 look at?

1 | about 2:25 p.m.)

2 MS. ROLNICK: So let's resume.

3 Q (BY MS. ROLNICK) And just as a reminder, and I'll try to  
4 do a better job of this too, please wait until I finish  
5 my question to begin your answer. And I'll also make  
6 sure I'm doing the same.

7 So I want to return to the potential notice  
8 requirement we've been discussing. So, I'm going to -- I  
9 know we had some back and forth a little bit ago about  
10 what that would require. But I want to ask you to assume  
11 for a moment the city is already sending someone in  
12 person to homes to -- when it lacks a restoration record  
13 and that that person is doing a visual inspection to  
14 decide whether the city will complete further restoration  
15 of that home.

16 So, in that circumstance, what additional work  
17 would be required for the person doing the inspection to  
18 leave a door hanger for the resident?

19 A Okay.

20 Q So let me walk this --

21 A Try that again --

22 O I'll start --

23 A -- because it's --

24 O -- from the beginning.

25 So, I'm going to ask you first to assume for a

moment that someone from the city or Rowe is already going to a home, and they're going to that home to complete a visual inspection to determine whether or not the city will be performing future restoration at that home.

A Okay.

Q And that person, if they decide they're not completing future restoration, is going to be leaving a door hanger. So, to leave the door hanger, would the person -- what would the person doing the inspection have to do on top of -- or what would they have to do to leave the door hanger?

A Well, from what you just said --

Q      Yeah.

A -- if that person's already there, they're there to take a look at restoration that supposedly was completed. They have to know what the restoration was to be done at that house, take a look, see if that restoration has been done. And then if everything is done, you're saying that they're going to leave a door hanger. Then they'd have to leave a door hanger.

Q So what -- assuming that, no matter what, someone is going to be doing that visual inspection, what additional burden would it impose for the person doing the inspection to also leave a door hanger?

1 A The only thing would be a small amount of time probably  
2 to go and put the door hanger on the door.

3 Q So they'd get out of their car --

## 4 A Vehicle.

5 Q -- walk up to -- get out of their vehicle, walk up to the  
6 house and leave the door hanger?

7 A If that's what is required, yes.

8 (Discussion off the record)

9 Q (BY MS. ROLNICK) Okay. So I'd like to return for a  
10 moment to the conversation we were having before  
11 the break about the potential labor burden of leaving  
12 these door hangers.

15 A It was my understanding that the city was supposed to  
16 provide personnel to go and do the work and leave the  
17 door hangers.

18 Q And was that the understanding you had when you wrote --  
19 when you came to the opinion represented in this  
20 affidavit?

21 A That somebody would have to be doing inspections, yes.

22 Q And it was your understanding that an employee of the  
23 city would have to do -- would be doing that?

24 A That's why I wrote this is because I don't have  
25 employees' time available to do extra work.

1 Q Mm-hmm.

2 A **We are tied up.**

3 Q Did you consider whether an employee of Rowe, the city's

4 contractor, could leave the door hanger?

5 A I thought about it very briefly. But, again, it's going

6 to -- that's going to be a cost, and we don't know if we

7 have enough money there to finish all the restorations

8 yet or not because we don't have a full understanding of

9 what all the costs will be.

10 Q Did you talk to anyone at Rowe about whether someone from

11 Rowe would have the capacity to leave the door hangers?

12 A **No.**

13 Q Did you have a conversation with anyone at Rowe while you

14 were coming to the opinion represented in your affidavit?

15 A **No.**

16 Q Did you talk to anyone at Rowe in preparing for this

17 deposition?

18 A **No.**

19 MS. ROLNICK: So I'm going to --

20 Could you pass me the...

21 I'd like to mark this as Exhibit 6.

22 (Exhibit Number 6 was marked for

23 identification)

24 MS. ROLNICK: I'm now handing this to the

25 witness.

1 burden on the city?

2 **A If the -- just the time that it's going to take to answer**  
3 **said questions would take time away from people that are**  
4 **doing other jobs currently. And we don't -- as I said**  
5 **earlier, we don't have extra people.**

6 **Q Did you consider any records of past communications from**  
7 **residents in forming your opinion?**

8 **A No.**

9 **Q Did you consult any data?**

10 **A For?**

11 **Q For in forming your opinion that resident communications**  
12 **as a result of this notice requirement would impose a**  
13 **burden on the city?**

14 **A No.**

15 **Q Did you conduct -- What, if any, analysis did you**  
16 **complete in coming to this opinion?**

17 **A Just the taking time away from the personnel I currently**  
18 **have.**

19 **Q And how did you -- what, if any, analysis led you to**  
20 **conclude that resident communications as a result of this**  
21 **notice would occur?**

22 **A Anytime that you put out information with phone numbers,**  
23 **names, that certain people will call if they have**  
24 **questions, and that would take time away from the people**  
25 **that I have doing other jobs.**

1 Q No problem -- in either coming to the opinion in this  
2 affidavit or preparing for this deposition?

3 A **No.**

4 Q Just to return for a moment, did you talk to anyone at  
5 Rowe about their capacity to handle resident calls or  
6 emails about restoration?

7 A **No.**

8 Q Earlier, you stated that you didn't consider costs in  
9 coming to the opinion in this affidavit. What did you  
10 mean by that?

11 A **I didn't look at other costs. Like you asked me about**  
12 **door hanger costs. I didn't look at that. All's I**  
13 **looked at was the personnel time.**

14 Q Did you calculate that personnel time?

15 A **No.**

16 Q If we could return for a moment to paragraph 9 of your  
17 affidavit, which is the -- and that's the paragraph  
18 reading, "The imposition of this requirement would impose  
19 an undue and heavy burden on the City."

20 Have we discussed everything you considered in  
21 coming to that opinion?

22 A **As far as I can remember.**

23 Q Okay. Was there any other basis for that opinion?

24 A **No.**

25 Q You've discussed concerns about potential personnel

1       costs. Did you have any other concerns about this  
2       potential notice requirement?

3   **A Any other costs that I don't know of yet until we started**  
4       **it.**

5   **Q**   What might those costs be?

6   **A Well, you've stated now the door hangers, the time to**  
7       **have someone reviewing the computer to find the**  
8       **information necessary. There may be more than just that**  
9       **one person going up to a door. I don't know all of it**  
10       **yet, but I just know that I don't have personnel**  
11       **available because of how tight we are currently.**

12   **Q**   So just to make sure I understand where you're coming  
13       from, when you were coming to the opinion in this  
14       affidavit, your thinking was, "I don't have extra  
15       personnel. There's a proposal on the table that would  
16       require my personnel to do something additional, and that  
17       would impose an undue and heavy burden on my people" --

18   **A Correct.**

19   **Q**   -- is that correct?

20                   Did you consider anything else?

21   **A That's all I looked at when I was discussed with this --**  
22       **or discussing this. Sorry. Not discussed. Discussing.**  
23       **Sorry.**

24   **Q**   No problem.

25                   So just to return for a moment to sort of the

1 mechanics of this potential notice requirement we're  
2 discussing. So, and I know we've had some back and forth  
3 about what it would actually require. But just assume  
4 for a moment that the city has agreed to use specific  
5 criteria to evaluate whether homes need further  
6 restoration or not.

7 So, the city or someone from Rowe is going to a  
8 home to do a visual inspection. The Rowe employee  
9 applies those criteria and decides no future restoration  
10 is needed and leaves a door hanger. Is it possible that  
11 the person doing that inspection might make a mistake  
12 about the specific criteria?

13 **A I guess.**

14 Q And if that person makes a mistake, is it possible that a  
15 resident might call the city to alert the city to that  
16 mistake?

17 **A Possible.**

18 Q Would it be useful for the city to hear from a resident  
19 if a mistake had been made about a visual inspection?

20 **A Quite probable.**

21 Q So, yes, it would be useful?

22 **A Yes. It's always useful to hear from residents.**

23 Q Would it be useful to hear from a resident if they just  
24 had a question about the city's visual inspection?

25 **A Yes.**

1 Q Why would this be useful?

2 A To hear what they are seeing. Because we still want --

3 the city still wants to be servicing our residents.

4 Q So how might the city take sort of these resident

5 questions about the visual inspection process into

6 account?

7 A I wouldn't know until I heard the questions.

8 Q But the city sort of incorporates resident feedback into

9 its decision making; is that fair to say?

10 A Yes.

11 Q In coming to the opinion in this affidavit and preparing

12 for this deposition, did you read Plaintiffs' Fifth

13 Motion to enforce the settlement agreement?

14 A No, not to my knowledge. I started to here today.

15 Q And I just want to clarify for a moment the drafting of

16 your affidavit. So you said earlier that you did not

17 write this, correct?

18 A Correct.

19 Q Did you tell your lawyer what to write in it?

20 A No, I asked them to -- to -- They discussed with me some

21 of the parts of Exhibit 3. And I stated that we didn't

22 have -- I don't have people available to go do some of

23 the things that they stated. And we came up with this

24 document.

25 Q And did you edit the document after your counsel drafted

1                   it?

2   **A    No, I read it. It looked good to me, and I signed it.**

3                   MS. ROLNICK: Let's take another five-minute  
4                   break. And I think we're getting close to done. I'm  
5                   just going to consult with my colleagues, but I expect  
6                   we'll be out of here in the next 30 minutes or so.

7                   (Discussion off the record. Recess taken  
8                   at 2:49 p.m. Deposition resumed at or  
9                   about 3:00 p.m.)

10                  MS. ROLNICK: Okay. Thank you very much for  
11                  your time, Mr. Brown. I still have a few more questions,  
12                  and then we'll get you out of here.

13   **Q    (BY MS. ROLNICK) So just to clarify one thing we were**  
14                  discussing earlier and make sure I understand, when you  
15                  were coming to the opinion in your affidavit, you  
16                  understood that the city would be -- could be required to  
17                  provide notice to every home where it had completed an  
18                  excavation; is that correct?

19   **A    Yes.**

20   **Q    Do you have an estimate of how much of the city's time it**  
21                  would take to respond to resident calls and  
22                  communications or calls and emails as a result of this  
23                  potential notice requirement?

24   **A    No.**

25                  MS. ROLNICK: Joe, do you have any questions?